



SO ORDERED.

SIGNED this 5 day of August, 2013.

Randy D. Doub
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

IN THE MATTER OF:
Albert Rodney Dunn, Debtor
Mavis Smith Dunn, Joint Debtor

CASE NO.: 13-04218-8-RDD
Chapter 13

ORDER AVOIDING JUDICIAL LIEN OF CACH, LLC
PURSUANT TO 11 U.S.C. § 522(f)

THIS CHAPTER 13 CASE is before the Court for consideration of a motion filed by the Debtors to avoid a judicial lien pursuant to 11 U.S.C. § 522(f) of the Bankruptcy Code; and having considered the motion and the other matters of record in this case, the Court finds and concludes as follows:

1. THAT, the Motion to Avoid Judicial Lien was duly served on all parties in interest, and that the time for objecting to the relief requested has expired without any objections being filed; and,
2. THAT, the Debtors are now and have been at all times since this case was filed the owners of real property as described in Book 7569, Page 0864 as recorded in the Registry of Deeds for the County of Cumberland, North Carolina, which property may also now or formerly be known as 6702 Interban Drive, Fayetteville, NC 28314
3. THAT, said property has a value of \$126,900.00, as of the date this bankruptcy case was filed; and

4. THAT, Debtors have claimed and were entitled to claim an exemption in said property pursuant to a permissible combination of N.C.G.S. § 1C-1601(a)(1) and (a)(2) of not more than \$50,621.00.

5. THAT, Rodney Alderic Dunn holds a judicial lien recorded on March 22, 2013 in Cumberland County as referenced in file number 12 CVD 00797 in the amount of \$43,615.51 plus interest at the rate of 8.00 percent per annum.

6. THAT, said judicial lien constitutes a lien upon said real property; and

7. THAT, as of the date this case was filed, the only other liens against the property recorded in Cumberland County were the following:

<u>Name of Creditor Holding the lien</u>	<u>Type of Lien</u>	<u>Payoff/Amount of lien</u>
Nationstar Mortgage	First Mortgage	\$76,279.70
		TOTAL \$76,279.70

8. THAT, since the sum of: (1) The amount of the said Judicial lien held by Rodney Alderic Dunn in the amount of \$43,615.51 plus interest at 8% per annum, (2) The total amount of all other said liens on the said real property in the amount of \$76,279.70 and (3) the amount of the exemption of \$50,621.00 that the Debtors were entitled to claim if there were no liens on the property, exceeds the value of the real property (or in the event that the Debtors own less than a 100% interest in said real property, the value of the Debtors' interest in said property) by \$43,615.51, the said judicial lien impairs the homestead exemption allowed to the Debtors; and

9. THAT, therefore, pursuant to 11 U.S.C. § 522(f)(1)(A), the judicial lien is avoidable to the full extent of said judicial lien.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. THAT, said judicial lien held by Rodney Alderic Dunn as referenced in file number 12 CVD 00797 is hereby avoided to the full extent of said judicial lien as to said real property; and that said judgment shall have no further force or effect as to said real property and,

2. Said judicial lien shall have no further force or effect as to said real property, UNLESS pursuant to 11 U.S.C. Sec. 349(b)(1)(B), this case is dismissed, or pursuant to 11 U.S.C. Sec. 348(f)(1)(B) this case is converted to a chapter 7 proceeding.

END OF DOCUMENT